

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CEDRIC MADISON, # 175372,)	
)	
Plaintiff,)	Case No. 1:08-cv-25
)	
v.)	Honorable Paul L. Maloney
)	
UNKNOWN SMITH, et al.,)	
)	
Defendants.)	
)	

ORDER DENYING MOTION FOR RECONSIDERATION

By order entered April 22, 2008, this court dismissed the captioned case without prejudice for plaintiff's failure to pay the initial partial filing fee. Plaintiff has now moved for reconsideration of the order of dismissal. For the reasons set forth below, the motion will be denied.

On January 10, 2008, the magistrate judge entered an order requiring plaintiff to pay an initial partial filing fee of \$9.88 within 30 days, as required by 28 U.S.C. § 1915(b)(1). On February 7, 2008, plaintiff requested an extension of time to make this payment. The magistrate judge granted the motion, extending plaintiff's time to April 3, 2008. That date elapsed without payment of the fee or any other action on plaintiff's part. Consequently, on April 22, 2008, this court dismissed the case without prejudice. Nearly three months later, plaintiff paid the initial installment and moved for reconsideration of the dismissal order.

If a motion for reconsideration is filed within ten days of the entry of judgment, the court may apply the rather lenient standard of Rule 59(e) applicable to motions to modify a

judgment. After the expiration of this ten-day period, however, the court lacks authority to apply the standards of Rule 59, but must proceed under Rule 60(b). *See Feathers v. Chevron USA, Inc.*, 141 F.3d 264, 268 (6th Cir. 1998). Rule 60(b) authorizes relief from a judgment only on specified grounds. The allegations in plaintiff's motion, taken as true, do not establish fraud, mistake, newly discovered evidence, or any other ground for relief enumerated in Rule 60(b). In the absence of any allegation falling within the scope of Rule 60(b), this court does not have authority to open its previous judgment. Accordingly:

IT IS ORDERED that plaintiff's motion for reconsideration (docket # 8) be an hereby is DENIED.

Dated: July 17, 2008

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge